

**Minutes of Wednesday, August 3, 2022**  
**North Delta Water Agency Special Board of Directors Meeting**  
**Informational – Drought Emergency Claims Procedure**  
Via Teleconference

**Call to Order**

Chairman Mello called the special board of directors meeting to order at 1:03 p.m. on Wednesday, August 3, 2022. A quorum was determined at that time. Those present:

Directors

Steve Mello, Division 1  
Justin van Loben Sels, Division 2  
Jack Kuechler, Division 3  
Mark van Loben Sels, Division 4  
Tom Slater, Division 5

Staff

Melinda Terry, Manager  
Cindy Tiffany, Assistant Manager  
Austin Cho, Downey Brand  
Anne Williams, MBK Engineers  
Gary Kienlen, MBK Engineers  
Yuen Lenh, MBK Engineers

Others

Tripp Mizell – DWR  
Anna Fock- DWR  
Noel Oberth - DWR  
Lou Biagioni  
Bryan Busch  
Happy Callis  
Gilbert Cosio

Ron Galindo  
Ben Kolber  
David Robinson  
Joe Salman  
Erik Stonebarger  
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**Status of Water Curtailment Orders in Delta Watershed**

Anne Williams gave an update of current water right curtailments. Post -1914 water rights in Sacramento River Watershed dated 1917 or later are curtailed. All Post-1914 rights and Pre-1914 water right claims in San Joaquin River Watershed outside of the Delta region are curtailed. Within the Delta region Post-1914 water rights with a priority date of 1917 or later are curtailed. All landowners within NDWA may continue to divert pursuant to the 1981 Contract regardless of curtailments.

**Review 1981 Contract Drought Emergency Provision (Article 4 (b)(i))**

Anne Williams, MBK Engineers, reviewed the three criteria in Art. 4(b)(i) of the 1981 Contract that trigger a drought emergency, which then requires DWR to either provide an overland water supply or establish a special contract claims procedure to compensate landowners for crop losses. Once all three of the following criteria are met, then the drought emergency provision is in effect.

Criteria (all must occur)	Current Status
1. Four-River Basin Index is less than an average of 9 MAF in two consecutive years	2021 = 6.4 MAF 2022 = 10.6 MAF Two-Year Average = 8.6 MAF
2. SWRCB emergency regulation is in effect and maintains water quality different from contract criteria	TUCP moves Emmaton salinity criteria (2.78 mS/cm) to Three Mile Slough triggered on June 3 <sup>rd</sup> thru June 30 <sup>th</sup> ; NDWA criteria < 2.78 mS/cm at Three Mile Slough
3. SWP Ag < 50%, or all SWP annual entitlements are reduced by at least 15%	SWP allocations at 5% as of March 18 <sup>th</sup>

**DWR Presentation on Special Contract Claims Procedure (Article 4(b)(iv))**

Pursuant to a drought emergency as defined in Art. 4(b)(i) being in effect as of June 3, 2022, DWR informed the NDWA that it will be establishing a Special Contract Claims Procedure in accordance with Art. 4(b)(iv). Anna Fock with DWR reviewed page by page the content of DWR’s 2022 Claims Procedure document (Attachment A). Claims eligible for state compensation are only for the loss of net income for each acre either: a) planted to a more salt-tolerant crop; b) not planted to any crop due to drought; or c) had a reduced crop yield. Calculation of the claims will be based on the average net income for any of the three prior five years and claims must be submitted no later than April 1, 2023. To submit a claim, the farmer must fill out the Claims Request Form which requires submission of specific information in order to be accepted for processing. This time, DWR is moving to an electronic format and would prefer all filings to be submitted electronically, but paper applications will still be accepted. She explained the timelines for processing and paying compensation, and advised there is also a Dispute Resolution Form if necessary.

Noel Oberth with DWR reviewed each component that must be filled out in the Claims Request Form. He said a copy of the deed, lease, or other legal document proving your eligibility to file a claim for a specific parcel must be emailed to their office. You can email the application documents and any questions on the process to: [swp\\_settlement@water.ca.gov](mailto:swp_settlement@water.ca.gov). Once the claim is submitted, NDWA will also need to sign the Signature Page confirming the APN identified in the claim is within NDWA boundaries. This approval will be sent by DWR to Cindy Tiffany at NDWA for her to verify jurisdiction and sign through DocuSign. All Claims Procedure forms will be accessible through hyperlink on the North Delta Water Agency website.

A video of the entire meeting will be made available to the public on YouTube, with a link on the NDWA website.

**Questions and Public Comment**

Question: Does DWR pay interest if there are delays in the compensation payment? *Anna replied there is no interest included, but the timeframes in the procedure were developed based on timelines needed to get through DWR’s payment processing.*

Question: Will DWR use third party experts to review and recommend compensation payments as it did in 2015? *Anna replied that DWR has a team to review internally, but if additional expertise is required, then DWR will use the UC Davis Ag Extension or other consultants to assist in reviewing claims.*

Question: Will the claim be accepted if farmer does not have the soil salinity data (root-zone concentrations) requested in Item #11 on the Claims Request Form? *Tripp Mizell, DWR legal counsel, responded that the soil salinity question is information DWR would like to have if that information is available. If claimant does not have this information, then needs to say so when filling out that item. Not providing this soil information will not prevent the claim from being processed or approved for compensation payment.*

**Adjournment**

Chairman Mello adjourned the meeting at 2:00 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager